STATE BOARD OF EQUALIZATION
STAFF LEGISLATIVE BILL ANALYSIS

Date Introduced	**02/18/99**	Bill No:	**AB 521**
Tax:	**Sales and Use**	Author:	**McClintock, et al**
Board Position:		Related Bills:	**AB 276**

BILL SUMMARY:

This bill would require all sales and use taxes on gasoline currently transferred to the General Fund to be continuously appropriated to the Department of Transportation for purposes of constructing or maintaining mixed-flow lanes on state highways.

ANALYSIS:

Current Law:

Under existing law, a tax is imposed on the gross receipts or sales price, as defined in Sections 6012 and 6011 of the Revenue and Taxation Code, respectively, of the sale of tangible personal property sold in this state. Those definitions specifically include in the amount to which the tax applies the amount of any tax imposed by the United States upon producers and importers of gasoline and the amount of any tax imposed by the state under the Motor Vehicle Fuel License Tax Law.

Current federal law imposes an excise tax of $0.184 per gallon on the removal of gasoline from a terminal or refinery, or upon entry of gasoline into the United States, while state law imposes an excise tax of $0.18 per gallon on the first distribution of gasoline in California.

Current state law requires the Board to allocate each quarter a portion of the sales and use tax collected on gasoline, diesel, and alternative fuels to the Public Transportation Fund (which is the successor to the Transportation Planning and Development Account currently referenced in the Revenue and Taxation Code). Among other things, existing Section 7102 of the Sales and Use Tax Law requires that revenues, less refunds, from the increase in the gasoline tax after December 31, 1989, derived from the sales and use tax rate imposed at 4 ¾ percent, be transferred quarterly to the Public Transportation Account, a trust fund in the State Transportation Fund. The gasoline tax has increased by $0.09 per gallon since December 31, 1989.

With its revenues derived from the sales tax on gasoline and diesel fuel, the Public Transportation Account is a trust fund whose main purpose is funding transportation planning and mass transportation programs as follows: 50% is distributed for public transit operation or capital improvements by specified formula, and the remaining 50% allocated to the consolidated State Transportation Improvement Program.

Proposed Law:

Among other things, this bill would add Section 7103 to the Revenue and Taxation Code to require the sales and use taxes, less refunds, derived at the 4 ¾ percent rate, resulting from the inclusion of both the state excise tax and the federal tax on gasoline in the taxable selling price of gasoline, be transferred quarterly to the Public Transportation Account, which is the successor to the currently referenced Transportation Planning and Development Account.

Background:

Senate Bill 325 (Ch. 1400, 1971) made possible the imposition of state sales and use tax on sales of gasoline, and in exchange for a reduction in the basic state tax rate, from 4% to 3¾%, without a corresponding loss in revenue. That bill also required that any sales tax collected above the amount that would have been collected if the tax rate had remained at 4% and gasoline remained exempt from the sales tax, be transferred to the Transportation Planning and Development Account.

At the June 5, 1990 primary election, the voters of California approved Proposition 111, which increased the excise tax on gasoline and diesel fuel by five cents per gallon beginning August 1, 1990. The proposition also increased the rate an additional one cent per gallon each January 1 thereafter, up to the current 18 cents per gallon rate in effect on and after January 1, 1994. SB 640 (Ch. 174, 1990) was then enacted to amend Section 7102 to require the sales tax imposed on the Proposition 111 tax increase, which is subject to the sales tax, to be allocated each quarter to the Transportation and Planning Development Account.

In 1997, Senate Bill 45 (Kopp, Ch. 622), among its provisions, changed the name of the Transportation Planning and Development Account to the Public Transportation Account. The trust fund retained its spending authority but the bill stated that any reference to the Transportation Planning and Development Account in the law or regulations is a reference to the Public Transportation Account.

COMMENTS:

1. Sponsor and purpose. This bill is sponsored by Assembly Member McClintock. The purpose of the bill is to guarantee that highway taxes are used strictly and solely for highways. This proposal is intended to redirect the necessary revenues for vital highway construction without the need for a tax increase or additional state bond debts.
2. This measure does not specify the account to which the funds should be transferred. As introduced, the money from the sales tax on gasoline would simply be appropriated to the California Department of Transportation. The bill should be amended to reference a specific highway account or fund from which money could be drawn to pay for the projects anticipated by this bill. With the suggested amendments, the estimates and transfers proposed by this bill would not complicate the Board's administrative duties.

This staff analysis is provided to address various administrative, cost, revenue and policy issues; it is not to be construed to reflect or suggest the Board's formal position.

3. Related measure. Assembly Bill 276 (Longville) would require all sales and use tax on gasoline to be transferred to the Public Transportation Account, a trust fund whose main purpose is funding transportation planning and mass transportation programs.

COST ESTIMATE:

The administrative costs associated with this bill would be absorbable. These costs would include advising and answering inquires from the public, and informing Board staff.

REVENUE ESTIMATE:

Background, Methodology, and Assumptions

Most of the sales tax on gasoline at a 5% tax rate goes to the State General Fund, while a relatively small portion is transferred to the State Transportation Fund. The exact amounts going to each fund are governed by the provisions of Section 7102 of the Revenue and Taxation.

The taxable sales of gasoline during fiscal year 1997-98 amounted to an estimated $16,854,676,000. The sales tax at a 5% rate on those transactions was $842,734,000. Of that amount, $784,213,000 went to the State General Fund and $58,521,000 went to the State Transportation Fund.

Revenue Summary

At a 1997-98 level of sales activity this bill would appropriate about $784 million annually from the State General Fund to the Department of Transportation.

Analysis prepared by:	Kevin A. Beile	323-7169	03/31/99
Revenue estimate by:	Jeff Reynolds	445-0840	
Contact:	Margaret S. Shedd	322-2376	

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